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PTO/SB/21 (04-07)

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Total Number of Pages in This Submission

3

Application Number	10/716,853
Filing Date	11/20/2003
First Named Inventor	ERIC John GANDAS
Art Unit	3767
Examiner Name	Philip A. Gray
Attorney Docket Number	EG1

ENCLOSURES (Check all that apply)		
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<input type="checkbox"/> Remarks Applicant Interview SUMMARY & REMARKS		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

BILLY SITGES, P.C. & ASSOCIATES

Signature

Bruce A. Lev

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Bruce A. Lev

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58,594

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MAY 22 2007

Inventor: Eric J. Gandras
Serial No.: 10/716,853
Invention Title: Pelvic Arterial Catheter
Examiner: Phillip Gray
Group: 3767
Date: May 17th, 2007

Applicant Interview Summary
& Comments

The applicant would like to thank Examiner Gray for his time and telephone interview of May 15th, 2007.

In the interview the Examiner agreed that the "tapered end section" of the applicant's invention (member 102) IS visually and structurally different from the "tapered end section" (member 103) of the patent to Engelson et al (US Patent 6,030,369).

It should be noted that the reference of Engelson is the ONLY reference cited and supplied throughout the entire prosecution thus far.

The applicant highlighted the fact that the "tapered end section" of the instant invention INCLUDES A CURVE (member 103, see Figure 2) wherein Engelson's end section (member 102) does not, and that THIS structural difference and improvement is clearly set forth within the existing claim language of all three independent claims, 1, 39, and 52, (i.e., "the tapered end section has at least one curve").

The Examiner disagreed that the existing claim language defined this difference well enough. Therefore, the applicant respectfully asked the Examiner for his suggestions as to what language would better define this clear difference. However, the Examiner refused to help the applicant with the claim language and stated, "writing claim language is NOT part of my job". The applicant suggested adding the term "distal" to the term "end section" to better well define the actual "tip/end section" of the catheter. The Examiner replied, "Any new terminology would constitute a new issue and therefore would not be entered After Final". The applicant insisted that this was not a "new issue" nor would warrant a new search, and that it was just to clarify the already existing claim terminology.

Further, the applicant pointed out the fact that the specification of the instant application clearly supported the terminology defining the end section of the catheter, and that the specification of Engelson has no reference to any curves being incorporated within his end section. The Examiner replied, "The specification is NOT used to help define claim language". Further, the Examiner stated "If we wanted ANY alternative or new language to be added to the claims we would have to file an RCE".

The applicant repeatedly asked the Examiner whether ANY of the structural differences between the instant invention and the catheter of Engelson would constitute patentable subject matter (i.e., curves in an end section of a catheter). The Examiner replied, "All the possible structural differences can be found in numerous prior art patents". The applicant then asked the Examiner why he did not set forth or use any of these other patents within his previous office actions or 'references cited' documents. The Examiner replied, "I don't have to search for anything more than the broadest sense of the actual claim language set forth in the claims."

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PAGE 33 • RCVD AT 5/22/2007 10:55:09 AM [Eastern Daylight Time] • SVR:USPTO-EFXRF-118 • DMS:2738300 • CSD: • DURATION (mm:ss) 01:34

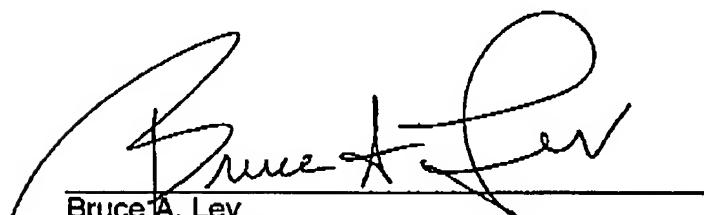
The applicant is dumbfounded as to why, when there are obvious structural differences between the instant invention and the prior art of record, the Examiner is reluctant to aid the applicant in crafting the proper claim language necessary for an allowance. Further, The applicant is dumbfounded as to why the Examiner would insinuate the existence of numerous other pertinent references yet refuse to cite them within the prosecution of the application.

The applicant requested that the Examiner spend a few minutes and retrieve some of the other references he stated he knew of and mentioned within the telephone interview and inform us of those patent numbers. A short time later, the Examiner called back and left a voice mail stating that he had some, but did not leave the requested information on our voice mail. The Examiner requested the applicant call back again for this information, which we did. However, the Examiner was unavailable and has not returned our calls with this information since.

Nonetheless, if retrieving other pertinent references was so easy, why didn't the Examiner do this during the initial examination of the application? It should be noted that the Examiner, to date, still has NOT supplied the applicant with any of these patent numbers.

Finally, it should be noted that within the Examiner's remarks to the applicant's first amendment the Examiner states (page 2, lines 20-21 of the 4/19/07 office action), "the features upon which applicant relies (i.e., "a CURVE within his end/distal tip section") are not recited in the rejected claims. However, the feature of a "curve" IS CLEARLY SET FORTH in EACH of the three independent claims. The other terminology (i.e., "distal" and "tip") is exactly what the applicant suggested could be used to further better well define the actual end section of the inventive catheter, and thereby place the application in immediate condition for allowance. The Examiner, however, refuses to want to do this.

As a final remark to the Examiner's statements as to his position and obligations as a Patent Examiner, the applicant respectfully asks the Examiner, "If it is NOT the Examiner's job to aid an applicant in obtaining a deserved patent, and in due course, what IS the job of an Examiner in the US Patent Office?"



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May 17th, 2007

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